

CONSIDERED: /JDS/ (03/25/2011)

PATENT
Attorney Docket No.: UCSD1620-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Dillmann et al.	Art Unit:	1633
Application No.:	10/562,524	Examiner:	James Schultz
Filing Date:	September 13, 2006	Confirmation No.:	8043
Title:	USE OF CALCIUM BINDING PROTEINS TO IMPROVE CARDIAC CONTRACTILE FUNCTION		

MAIL STOP RCE

Commissioner for Patents
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CONSIDERED: /JDS/ (03/25/2011)

DECLARATION UNDER 37 C.F.R § 1.132

I, Dr. Wolfgang Dillmann, declare and state that:

1. I am a named inventor of the subject matter described and claimed in U.S. Patent Application Serial No. 10/562,524, filed on September 13, 2006; which is a national stage filing of Intl. Application No. PCT/US04/22718, filed June 28, 2004; which claims the benefit of priority of U.S. Provisional Patent Application Serial No. 60/484,509, filed July 1, 2003.
2. I am familiar with the prosecution history of U.S. Patent Application Serial No. 10/562,524.
3. I am familiar with the contents of the above-identified patent application and the provisional patent application upon which it is based.

4. I understand that claims 1, 3, 5 and 6 are rejected under 35 U.S.C. §102(a), as allegedly anticipated by Suarez et al. (*Am. J. Physiol. Heart Circ. Physiol.* 286(1):H68-75 (2004), Epub. Sept. 2003; hereinafter ‘Suarez’).

5. I also understand that claims 1, 3, 5-9, 11 and 27-29 are rejected under 35 U.S.C. §103(a) as allegedly obvious over Suarez in view of Podskoff et al. (U.S. Patent No. 6,335,011; hereinafter ‘Podskoff’).

6. I have reviewed the Suarez reference and I understand that the Office Action asserts that Suarez allegedly discloses, in part, that adenoviral gene transfer of sorcin increases cardiac contractility *in vivo*. *See* Office Action, page 6. The Office Action further asserts that Suarez allegedly discloses delivery of sorcin-encoding vector into the heart and that sorcin overexpression increase left ventricular pressure, max dP/dT, and minimum dP/dT compared to control. *Id.*

7. The authors of Suarez include Jorge Suarez, Darrell Belke, Bernd Gloss, Thomas Dieterle, Patrick McDonough, Yun-Kyung Kim, Laurence Brunton, and myself.

8. With the exception of myself, Jorge Suarez, Darrell Belke and Bernd Gloss, the other co-authors of the Suarez reference did not contribute to the mental conception of the present invention, but rather performed the various experiments which were conceived and designed by the true inventors.

9. The Suarez reference is an article describing the true inventors’ own work, which is verifiable by review of U.S. Provisional Patent Application Serial No. 60/484,509, filed July 1, 2003, the priority application of the instant application.

In re Application of
Dillmann et al.
Application No.: 10/562,524
Filed: September 13, 2006
Page 3

PATENT
Attorney Docket No.: UCSD1620-1

10. I further declare that all statements made herein of knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

8-9-11
Date

W. Dillmann
Dr. Wolfgang Dillmann